

App. No. 10/787,364
Attorney Docket 3040.2.2 NP

Amendments to the Drawings

None

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Remarks

Applicant thanks the Examiner for the Written Office Action.

With regard to the substantive portion of the Written Office Action, Claims 2-7, 15, 19, and 20 were withdrawn from consideration. Further, Claims 1, 8-14, and 16-18 were rejected. In particular, Claims 1, 8-14, and 16-18 were rejected under 35 U.S.C. 102(b) as being anticipated by Finley. Further, Claims 1, 8-12, 16, and 17 were rejected under 35 U.S.C. 103(a) as being unpatentable over French pat. '343 to Humbert in view of either Olms et al. or Correl and Nutt.

In response to the Written Office Action, Claims 1 and 12 are amended. The specification is amended to include language describing limitations clearly shown in the Figures.

Rejection under 35 U.S.C. 102(b)

It is well settled that under 35 U.S.C. §102 "an invention is anticipated if . . . all the claim limitations [are] shown in a single art prior art reference. Every element of the claimed invention must be literally present, arranged as in the claim. The identical invention must be shown in as complete detail as is contained in the patent claim."

Richardson v. Suzuki Motor Co., Ltd., 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). In determining whether a prior art reference anticipates a claim, it is necessary to (1) determine the scope of Applicant's broadest claim, (2) determine exactly what the single prior art reference discloses, and (3) compare each and every claim limitation against the prior art disclosure. SSIH Equipment, S.A. v. U.S. Int'l Trade Commission et al., 218 U.S.P.Q. 678, 688. Only if each limitation is literally disclosed by the prior art reference is the claim anticipated.

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Claims 1 and 12 are amended to include limitations not disclosed in Finley.

Claims 8-11, 13 – 14, and 16-18 each depend from Claims 1 or 12. Wherein the new limitations included in Claims 1 and 12 are clearly disclosed in Figures 5-7, it is believed that the limitations included are not new matter. The specification is amended to include language describing the limitations clearly disclosed in the Figures. Accordingly, the Applicant respectfully notes that Claims 1, 8-14, and 16-18 are in condition for allowance and hereby requests that the rejection under 35 U.S.C. 102(b) be withdrawn.

Rejection under 35 U.S.C. 103(a)

The Written Office Action fails to present a *prima facie* case of obviousness. "It is insufficient that the prior art disclosed the components of the patented device, either separately or used in other combinations; there must be some teaching, suggestion, or incentive to make the combination made by the inventor." *Northern Telecom, Inc. v. Datapoint Corp.*, 908 F.2d 931, 934 (Fed. Cir. 1990) See e.g. *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed.Cir.1985). To establish *prima facie* obviousness, there must be some suggestion or motivation to modify the reference or to combine reference teachings to arrive at the claimed invention. "The teaching or suggestion to make the claimed combination ... must be found in the prior art, not in applicant's disclosure." MPEP 2143, citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination." See MPEP 2143.01, citing *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Accordingly, wherein the Written Office Action fails to provide a motivation to combine Humbert with either Olms et al. or Correll and Nutt, the

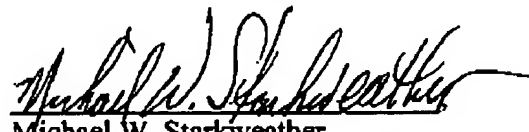
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Written Office Action fails to present *prima facie* obviousness. Therefore, the Applicant respectfully requests that the rejection under 35 U.S.C. 103(a) be withdrawn.

Conclusion

For these reasons, it is believed that none of the prior art teaches the claimed invention. Furthermore, it is believed that the foregoing amendment has adequate support in the specification, in particular in Figures 5, 6, and 7, and accordingly there should be no new matter. The specification is amended to include the language describing the limitations drawn from Figures 5, 6, and 7. Applicant believes the pending claims have addressed each of the issues pointed out by the Examiner in the Office Action. In light of the foregoing amendment, the claims should be in a condition for allowance. Should the Examiner wish to discuss any of the proposed changes, Applicant again invites the Examiner to do so by telephone conference.

Respectfully Submitted,


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